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October 29, 1996

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Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

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OCT 29 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: CS Docket No. 96-46, Cable Television Association of
Georgia Reply

Dear Mr. Caton:

On October 21, the Cable Television Association of Georgia ("CTAG") filed its reply to BellSouth's *Opposition To Petition For Reconsideration And Clarification*. BellSouth Telecommunications, Inc., ("BellSouth") feels compelled to respond to CTAG's continued use of insinuation, innuendo, half-truth, and total falsehood to perpetuate its attacks on BellSouth for refusing to submit to CTAG's anticompetitive agenda.

At page 5, CTAG twists BellSouth's use of a sworn declaration by an executive of BellSouth Interactive Media Services, Inc., into an assertion that "BellSouth is saying to the Commission 'trust us.'" A declaration made on the penalty of perjury is not a plea to "trust us." CTAG also questions the qualifications of Mr. Smith, a marketing executive, to testify to "a significant corporate accounting issue." Reply at n.5. Mr. Smith authorized the expenditure for the equipment and is, therefore, qualified to speak authoritatively on this issue.

At page 6, rather than honorably retracting its irresponsible misrepresentation of BellSouth's marketing research document, CTAG scolds BellSouth for not protecting the document from disclosure. CTAG even charges that BellSouth "allowed" the document "to make its way into the public" CTAG correctly states that it "has no direct evidence" to support this allegation. It shrewdly fails to acknowledge that it has no indirect evidence either. CTAG's charge that BellSouth permitted disclosure of the document to create "a word-of-mouth marketing effect" is unwarranted and patently absurd.

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At footnote 11, CTAG fabricates an entirely new "fact" to support its contention that BellSouth had begun its video dialtone trial. It states that BellSouth accepted programmers' deposits for channel capacity. It offers no evidence of this assertion; nor can it. The allegation is completely false. BellSouth did not request or accept payment of any deposits from programmers or anyone else. Indeed, BellSouth had no tariff that would have permitted it to require such deposits. It is incomprehensible that attorneys who take seriously the requirements of Section 1.52 of the Commission's Rules could have signed a pleading containing this allegation.

At page 8, CTAG argues that BellSouth continues to be subject to the conditions of its video dialtone trial authorization. CTAG cleverly misstates the 1996 Act's provision terminating the Commission's video dialtone rules, stating, "The 1996 Act explicitly stated that the repeal of the Commission's video dialtone rules did not constitute repeal of the pre-Act Section 214 authorizations." CTAG achieves this half-truth by paraphrasing Section 302(b)(3) to imply a grandfathering of the video dialtone authorization orders. Section 302(b)(3) actually states, "This paragraph shall not be construed to require the termination of any video-dialtone system that the Commission has approved before the date of enactment of this Act." It says nothing of continuing in effect any order of authorization or any conditions in such orders.

BellSouth has no reservations whatsoever about the Commission's examination of its records of the Chamblee trial. Indeed, BellSouth fully expects such examination to occur in the course of one of the Commission's routine audits of BellSouth's nonregulated activities and affiliate transactions. BellSouth does strenuously object, however, to the additional regulatory hurdles that CTAG would place before BellSouth as it leaves video dialtone behind and as BellSouth Interactive Media Services, Inc., enters the market as a competitive cable operator.

Pursuant to Section 1.1206(a)(1) of the Commission's Rules governing written *ex parte* presentations, two copies of this letter and the enclosure are attached for inclusion in the public record of the above-captioned proceeding. If you have any questions regarding this matter, please contact Karen Possner at (202) 463-4160.

Sincerely,


Michael A. Tanner
General Attorney 